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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

STACE CHEVEREZ, individually
and on behalf of others similarly
situated,

Plaintiff,

vs.

PLAINS ALL AMERICAN
PIPELINE, LP, a Delaware limited
partnership,

Defendant.

Case No.

COMPLAINT – CLASS ACTION

DEMAND FOR JURY TRIAL

I. INTRODUCTION

Plaintiff Stace Cheverez (“Plaintiff”), individually and on behalf of all others similarly situated, alleges the following against Plains All American Pipeline, LP (“Defendant” or “Plains”), based where applicable on personal knowledge, information and belief, and the investigation and research of counsel.

II. NATURE OF THE ACTION

1. On the morning of May 19, 2015, a 24-inch oil pipeline in Santa Barbara, California known as Line 901 and owned by Defendant Plains All American Pipeline, LP ruptured. For Defendant, a Texas-based company, ruptured pipelines are nothing new; since 2006, federal agencies have cited it for at least 175 safety and maintenance violations. What made this failure different, however, was that this pipeline runs along the edge of the Pacific Ocean, and the rupture sent thousands of gallons of toxic crude oil flowing over some of the most beautiful beaches and pristine waters in California.

2. Before Defendant managed to shut off Line 901, it had discharged over 100,000 gallons of crude oil. Oil coated the shoreline, clinging to rocks, sand, and the animals it touched. Oil floated out to sea, creating a slick that stretched for miles, contaminating several State Marine Conservation Areas along the way, and forcing the closure of beaches, fishing grounds, and shellfish operations.

3. These waters are home to hundreds of sensitive animal species, and serve as the backbone of the local economy. Tourists come to these beaches to enjoy the unspoiled sand and water. People support themselves and their families by harvesting fish and shellfish from these waters. All that has been damaged by this spill, and that damage will likely last for decades.

4. This depressingly familiar story could have been averted had Defendant installed an automatic shut-off valve on the pipeline. Such systems are not new or novel; they are ubiquitous on pipelines across the country. In fact, Line

1 901 is the only pipeline of its kind in Santa Barbara County without this key safety
2 feature.

3 5. The absence of an automatic shut-off system is no accident. When
4 Defendant, through its predecessor in interest, built the pipeline in 1987, Santa
5 Barbara County demanded that it install such a shut-off system and allow the
6 County to inspect the welds on the pipeline. Rather than doing the responsible
7 thing and installing safety systems and protocols, as all the other pipeline owners
8 in the area had done, Defendant sued, arguing that the County lacked the authority
9 to force it to install an automatic shut-off system or inspect its pipeline. As a result,
10 Line 901 has no automatic shut-off system, and now more than 100,000 gallons of
11 crude oil pollutes the waters and beaches on which the people and wildlife of this
12 region depend.

13 6. The Plaintiff brings this action pursuant to Federal Rule of Civil
14 Procedure 23 on his own behalf and as a representative of others similarly situated
15 to recover significant economic losses they have incurred and will continue to
16 incur because of Defendant's oil spill.

17 **III. PARTIES**

18 7. Plaintiff Cheverez is a resident of Santa Barbara County, California.

19 8. Defendant Plains All American, L.P. is a Delaware limited partnership
20 with its principal place of business in Houston, Texas. Defendant operates through
21 or on behalf of PAA GP LLC, a Delaware limited liability company; Plains AAP,
22 L.P. ("AAP"), a Delaware limited partnership that is the sole member of PAA GP
23 LLC; Plains All American GP LLC ("GP LLC"), a Delaware limited liability
24 company; Plains GP Holdings, L.P. ("PAGP"), a Delaware limited partnership that
25 is the sole member of GP LLC; and PAA GP Holdings LLC, the general partner of
26 PAGP.

1 9. Defendant owns and operates the All American pipeline system, a
2 common carrier crude oil pipeline system that transports crude oil produced from
3 two outer continental shelf fields off the California coast via connecting pipelines
4 to refinery markets in California. The system receives crude oil from
5 ExxonMobil's Santa Ynez field at Las Flores and receives crude oil from the
6 Freeport-McMoRan-operated Point Arguello field at Gaviota.

7 **IV. JURISDICTION AND VENUE**

8 10. This Court has jurisdiction over this action pursuant to 28 U.S.C. §
9 1332(d) because the amount in controversy exceeds \$5 million, exclusive of
10 interest and costs, and members of the proposed class are citizens of different
11 states than Defendant SPE. This Court also has jurisdiction over this action
12 pursuant to 28 U.S.C. § 1331 because it arises under the laws of the United States.

13 11. This Court has personal jurisdiction over Defendant because it is
14 registered to conduct business in California, and has sufficient minimum contacts
15 with California.

16 12. Venue is proper in this district under 28 U.S.C. § 1391(b) because a
17 substantial part of the events or omissions giving rise to Plaintiff's claims occurred
18 in this district.

19 **V. FACTS**

20 **A. The Gaviota Coast**

21 13. The Gaviota Coast north of Santa Barbara is a special place. Its blue
22 waters and beautiful coastline are home to an abundance of life, including critical
23 populations of endangered Snowy Plovers, seals, migrating whales, and myriad
24 fish. For those reasons, the area is often called North America's Galapagos.

25 14. Because of this natural bounty and beauty, as long as people have
26 lived in North America, they have lived on the Gaviota Coast. Today, the
27 economic life in this region revolves around its waters and beaches. Thousands of
28

1 people in Santa Barbara County depend on the ocean and beaches for their jobs –
2 fishing, tourism, and recreation in the region rely on them.

3 15. For example, a 2009 report by the California Department of Fish and
4 Game found annual ex-vessel revenues for fishing vessels in Santa Barbara County
5 of \$6.5 million. That includes important near shore fisheries like crab, lobster, and
6 sea urchin.

7 16. Now contamination by Defendant's oil spill has undermined the
8 health of the environment on which that economy depends.

9 17. Threats to the Gaviota Coast and Santa Barbara's environment and
10 economy from oil development are not new. In 1969, a blowout at Union Oil's off-
11 shore drill rig sent millions of gallons of oil into the waters and onto the beaches of
12 Santa Barbara County. The blowout killed thousands of birds, dolphins, fish, and
13 other marine life.

14 18. Despite that disaster, the oil industry has only continued to grow in
15 and around Santa Barbara County. Today, however, governments and some
16 companies have taken significant steps to make the production and transportation
17 of crude safer and more reliable. Defendant, on the other hand, is notable for its
18 track record of doing otherwise.

19 **B. The Failure of Plains All American Pipeline**

20 19. Line 901, a 10-mile long, 24-inch wide pipeline owned and operated
21 by Defendant, runs along the edge of the Pacific Ocean, transporting up to
22 6,300,000 gallons of oil a day between Gaviota and Las Flores. The route takes the
23 pipeline past several state parks and beaches, including Refugio State Beach,
24 carrying crude from offshore platforms inland, and from there to refineries.

25 20. On the morning of May 19, 2015, Line 901 ruptured near Refugio
26 State Beach, spilling toxic oil onto the beach and into the Ocean.

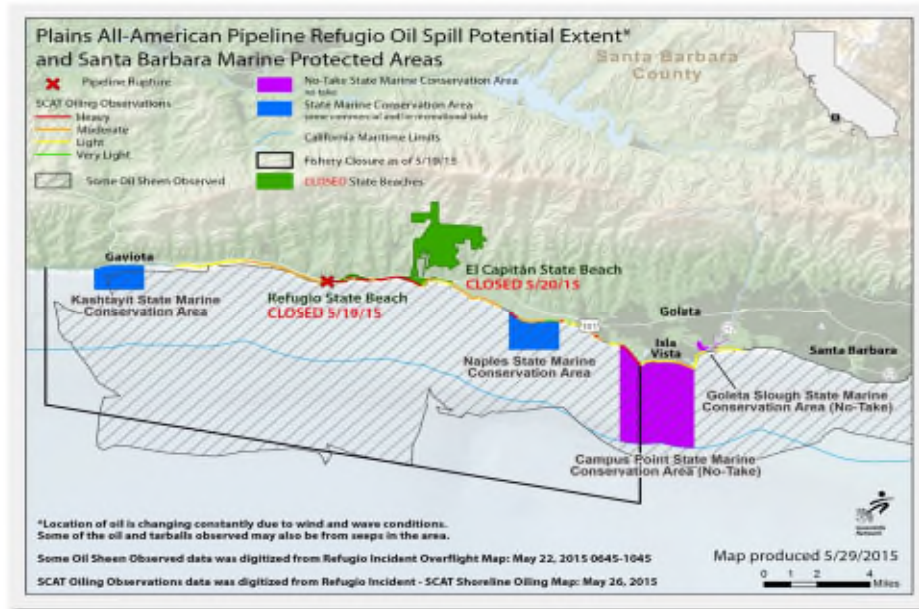
1 21. As oil poured out of the ruptured pipe, neighbors and beachgoers
2 began to be overwhelmed by the smell of oil. At approximately 11:30 a.m. the
3 Santa Barbara County Fire Department responded to reports of the odors, and
4 arrived to find oil flowing from the pipeline, through a storm drain under Highway
5 101, across the beach, and into the Pacific Ocean. Oil continued to leak from the
6 pipeline until approximately 3 p.m.

7 22. Initially, the oil covered the beach and rocks just below the failed
8 pipe. But once it reached the water, the oil spread quickly, travelling for miles out
9 to sea. The oil fouled beaches for miles in each direction. As of May 28, the spill
10 had impacted up to 28 miles of coastline.

11 23. While the precise timeline of events is still not known, it appears that
12 Defendant did not promptly act to respond to signs of the pipeline failure or notify
13 relevant government agencies. As California's two United States senators stated in
14 a letter to Defendant, "we are concerned that Plains Pipeline may not have detected
15 this spill or reported it to federal officials as quickly as possible, and that these
16 delays could have exacerbated the extent of the damage to the environment." The
17 senators called Defendant's response "insufficient."

18 24. Indeed, many witnesses who visited Refugio State Beach the night of
19 the spill reported little or no response. Even the next day, as professional clean-up
20 crews began to respond to Refugio State Beach, the response at other nearby
21 beaches was left to volunteers with little or no training or protective equipment,
22 using nothing but shovels and five-gallon buckets to try to remove thousands of
23 gallons of crude from the sand and sea.

24 25. Despite the efforts of those volunteers and professional responders,
25 the scope of the spill continues to expand. It has already impacted numerous
26 Marine Protected Areas that provide vital breeding and feeding grounds for marine
27 species, as shown in this map prepared by the GreenInfo Network:
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26. As the oils spreads, so do its terrible consequences. Numerous, fish, birds, and marine mammals have died after being covered in oil or exposed to the oil's toxic compounds. Tar balls are washing up on beaches far to the south and east of Refugio. Frisbee-sized "oil pancakes" are drifting toward Channel Islands National Park. An oil-covered duck recently appeared at Alice Keck Park in downtown Santa Barbara, trying to clean itself in a decorative pond.

27. Those are the visible harms, relatively easy to see and tally. Beneath the ocean's surface, however, a largely unseen catastrophe is unfolding. There, as the oil sinks and swirls in the tides and currents, it is likely suffocating sea grass, clinging to kelp beds, smothering reefs, and otherwise seeping into the aquatic food chain through shellfish and plankton. Dead bass, lobsters, crabs, octopi and other species that live beneath the surface offshore have already begun washing up on area beaches.

28. In Santa Barbara, those environmental impacts translate to profound economic impacts. In the short term, the oil from Defendant's ruptured pipeline has closed fishing grounds and shellfish areas, and caused canceled reservations

1 from tourists who otherwise would be spending their money on hotels, restaurants,
2 kayaking or surf trips, and fishing charters

3 29. For example, state officials have closed these key coastal fishing areas
4 from Canada de Alegeria to Coal Oil Point, including the shoreline and offshore
5 areas between those points to 6 miles offshore. Even after that closure is lifted—
6 and that could be months away—the spill’s impacts on those fisheries will
7 continue far into the future. Also, the negative publicity from the spill has and will
8 deter seafood buyers from seeking out Santa Barbara seafood.

9 30. The spill has also discouraged tourists from visiting businesses in
10 Santa Barbara County, where tourism (along with agriculture and wine) accounts
11 for roughly 15 percent of the workforce, or over 36,000 jobs. For example, one
12 local kayaking company reported 25 cancellations following the spill, resulting in a
13 loss of approximately \$3,000. Two popular state beaches—Refugio and El
14 Capitan—were closed during one of the busiest holiday weekends of the year, and
15 are expected to remain closed until at least June 18.

16 31. Finally, the oil spill presents a serious risk to human life. The Santa
17 Barbara County Health Department has recommended that residents avoid all areas
18 affected by the spill, but a major highway runs through and adjacent to the spill
19 area. Refugio Beach is considered a “Hazmat area,” the County said. The County
20 also warned that direct contact with oil, inhalation of fumes, or ingestion of
21 contaminated fish or shellfish can cause skin irritation, nausea, vomiting, and other
22 illnesses.

23 32. Long term, the impacts may be as-yet-unknown, but they are no less
24 certain. Even with the best spill response, toxic oil will remain in the environment
25 for a long time, continuing to harm water, wildlife, and beaches. Recently, five
26 years after the Deepwater Horizon oil spill in the Gulf of Mexico, officials
27 assessing the damage to that ecosystem said “the environmental effects of this spill
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1 is likely to last for generations.” So too with this spill, which will cause similarly
2 long-lasting environmental and economic impacts.

3 **C. Plains All American Pipeline Has a Long History of Recklessly Avoiding**
4 **Installing Safety Equipment**

5 33. While this spill is a disaster, it is not an accident. Defendant wantonly
6 disregarded the health and safety of the people and environment by operating a
7 pipeline it knew did not have proper safety systems in place.

8 34. In 1987, when Defendant constructed Line 901, Santa Barbara
9 County’s Energy Division sought to ensure the pipeline was constructed properly
10 by, among other thing, inspecting the welds on the pipeline using x-rays. The
11 Division routinely inspected welds on new pipelines, as a way to ensure they had
12 been done correctly to reduce the risk of failure. The Division also ordered
13 Defendant to install an automatic shut-off valve system on the pipeline to ensure
14 the pipeline would shut down swiftly, and without having to wait for human action,
15 at the first sign of a problem in the pipeline.

16 35. Rather than agreeing to these commonplace and common-sense safety
17 protocols, Defendant instead fought the County, suing it in U.S. District Court in
18 1987 and arguing it lacked jurisdiction to regulate its pipeline design and
19 installation.

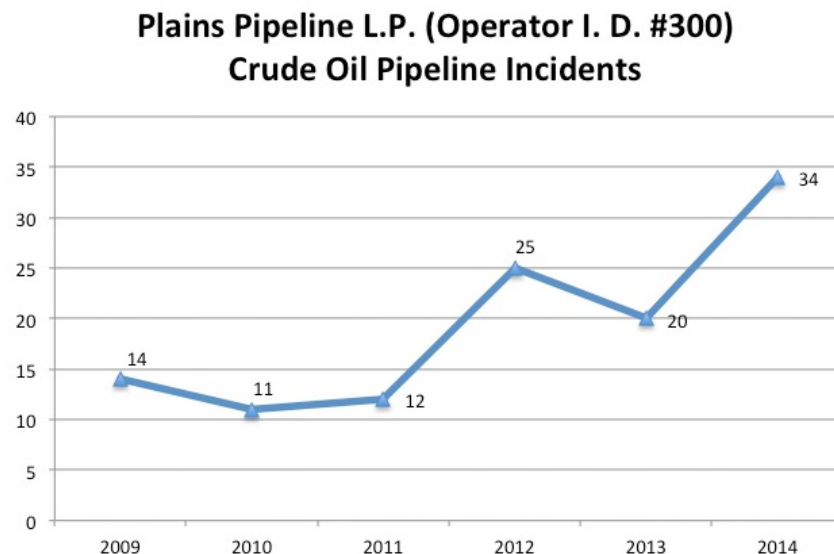
20 36. As a result, today Line 901 is the only pipeline in Santa Barbara
21 County “whereby the county is preempted from monitoring and safety
22 inspections,” said Kevin Drude, Director of the County’s Energy Division. Drude
23 has publicly said that Defendant’s employees rarely, if ever, attend monthly
24 meetings that he holds to discuss safety concerns with all the pipeline operators
25 under his jurisdiction.

37. Also as a result of its lawsuit against the County, today Defendant operates the only pipeline of its type in the County without an automatic shut-off valve system. For those reasons, it is the only pipeline that is capable of failing and discharging more than 100,000 of gallons of oil.

38. While Santa Barbara, its citizens, and environment bore the risk, and now reality, of a catastrophic pipeline failure, Defendant has reaped rising profits, estimated at roughly \$389 million on over \$2 billion in earnings. By avoiding the cost of safety equipment and systems, Defendant boosted its profits by transferring the cost of failure to people who live and work in Santa Barbara County.

39. The lax safety standards at Line 901 were not isolated incidents for Defendant. Since 2006 it has been cited for more than 175 violations of safety requirements, which have caused nearly \$24 million in property damage. Eleven of those incidents were in California. Defendant is one of the top four most-cited pipeline operators in the country.

40. Even more alarming is that, according to federal statistics analyzed by the website The Smart Pig Blog, the “number of incidents on crude oil pipelines operated by [Defendant] . . . is increasing faster than the national average,” as shown in this chart:



1 41. Last year, for example, a pipeline owned and operated by Defendant
2 ruptured in a Los Angeles neighborhood, covering the streets, cars, houses, and
3 businesses in oil. The cause: a poorly maintained pipeline. A few years ago,
4 another poorly maintained Plains pipeline ruptured and sent oil into a drinking
5 water reservoir for Los Angeles.

6 42. In 2010, pursuant to a Consent Decree filed by the U.S. EPA
7 following numerous alleged violations of the Clean Water Act by Defendant in
8 several states, Defendant represented that it would update its procedures such that
9 the “first required action where there is an indication of an increase in flow-rate
10 outside the steady-state range [would be] “If there is an unexplained increase in
11 delivery flow-rate with corresponding decrease in pressure – SHUTDOWN the
12 affected line segment.”

13 43. As part of that settlement, Defendant paid a \$3.25 million penalty for
14 10 spills between June 2004 and September 2007 that discharged a total of roughly
15 273,420 gallons of crude oil into navigable waters or adjoining shorelines in Texas,
16 Louisiana, Oklahoma, and Kansas,

17 44. Defendant itself recently acknowledged in a disclosure report to the
18 U.S. Securities and Exchange Commission that it has “experienced (*and likely will*
19 *experience future*) releases of hydrocarbon products into the environment from our
20 pipeline . . . operations” that “may reach surface water bodies.” (Emphasis added).

21 45. In short, Defendant has an ugly tradition of operating pipelines that
22 fail. The communities through which it transports oil suffer the consequences.

23 46. Defendant knew of the extremely high risk of catastrophic injury
24 inherent in the transportation of oil through a pipeline. Notwithstanding, Defendant
25 took no action to prevent or protect Plaintiff and the Class. Indeed, Defendant
26 actively avoided taking action to protect Plaintiff and the Class from apparent risks
27 its Line 901 pipeline presented. Defendant demonstrated a callous and reckless
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1 disregard for human life, health, and safety by operating Line 901 without proper
2 safety equipment. This disregard for human life and safety at Line 901 is part of a
3 pattern and practice that Defendant has demonstrated across the country.
4 Defendant acted with such indifference to the consequences of its misconduct, with
5 such recklessness, and as part of a well-established pattern, as to be willful,
6 malicious, and oppressive, and in disregard of the rights of the Plaintiff, thereby
7 meriting an award of punitive or exemplary damages against Defendant.

8 47. This lawsuit therefore seeks to compensate the victims of the spill and
9 to ensure that Defendant is prevented from causing additional damage to Santa
10 Barbara County's economy and environment in the future.

11 VI. PLAINTIFF'S FACTS

12 A. Plaintiff Cheverez

13 48. Plaintiff Cheverez, a resident of Santa Barbara, is an urchin diver and
14 nearshore fisherman. He grew up on the beaches of Santa Barbara County,
15 recreationally diving for the urchin, lobster, and other species that live just
16 offshore.

17 49. After high school, he worked at a charter diving business at the Santa
18 Barbara marina, rising from deckhand to a captain. After that, he decided to be a
19 commercial fisherman. In 1989, he bought a permit to commercially harvest sea
20 urchin in California, for which he pays an annual fee. He bought his first nearshore
21 permit five years later. Today, he owns and maintains two boats: the 34-foot
22 Florentia Marie M/V, which he uses for urchins and nearshore fishing, and a 16-
23 foot outboard he uses to fish in the eelgrass beds close in to the surf.

24 50. Defendant's oil spill has damaged and will continue to damage the
25 fisheries on which Plaintiff Cheverez's livelihood depends. For example, species
26 like Grass Rockfish spawn during the winter and spring in the eelgrass and kelp
27 beds close to shore. At the time of Defendant's spill, those juvenile fish were
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1 returning to those areas to feed and grow. Those are the same areas where
2 Defendant has spilled tens of thousands of gallons of crude oil.

3 51. Sea urchins—prickly, fist-sized invertebrate that cling to rocks and are
4 prized for their roe—cannot avoid oiled areas, so urchins close to shore have likely
5 also been impacted.

6 52. But for Defendant's oil spill, Plaintiff Cheverez would have been or
7 would presently be fishing the nearshore areas that are currently closed due to the
8 spill.

9 53. Defendant's acts and omissions have caused present injury to Plaintiff
10 Cheverez as well as the concrete risk of imminent, additional injury.

11 **VII. CLASS ACTION ALLEGATIONS**

12 54. Plaintiff brings claims pursuant to Federal Rule of Civil Procedure 23
13 on behalf of classes of similarly situated persons. Plaintiff proposes two classes: a
14 Commercial Fishery Class and a Natural Resources-Based Businesses Class.

15 55. The Commercial Fishery Class is defined as follows:

16 All persons who derive a significant portion of their
17 income through the direct harvest of fish, shellfish, or
18 other sea life in the marine waters adjacent to Santa
19 Barbara County.

20 56. The Natural Resources-Based Businesses Class is defined as follows:

21 All persons who derive a significant portion of their
22 income from the operation of a business or businesses in
23 Santa Barbara County, where such businesses are
24 dependent upon the coastal and marine natural resources
25 of that county, and that have lost profits as a result of
26 Defendant's oil spill.
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1 57. Both classes are ascertainable and have a well-defined community of
2 interest among their members.

3 58. **Ascertainability:** Although the Classes are large, the precise number
4 of members can be ascertained in at least two ways. First, because the members of
5 the proposed Classes live in a geographically confined area, providing notice to
6 them via newspapers, trade publications, and other routine avenues of
7 communication will be easily accomplished. Third, Defendant's records – such as
8 logs of complaints from affected class members – will also serve to ascertain
9 potential Class members.

10 59. **Numerosity:** The members of the Classes are so numerous that
11 joinder of all members would be impractical. The proposed Classes likely contain
12 hundreds of members.

13 60. **Commonality:** There are common questions of law and fact that
14 predominate over any questions affecting only individual members of the Classes.

15 61. For Plaintiff and the Classes, the common legal and factual questions
16 include, but are not limited to, the following:

17 a) Whether Defendant acted negligently and/or fraudulently to
18 cause the spill;

19 b) Whether Defendant had installed and maintained adequate
20 safety measures and systems on Line 901 and in its systems of command and
21 control to prevent the spill;

22 c) Whether Defendant conducted adequate supervision that could
23 have prevented the spill could be prevented;

24 d) Whether Defendant engaged in unconscionable, deceptive,
25 and/or unreasonable business practices and conduct;

1 e) Whether Defendant knowingly, intentionally, or negligently
2 concealed, suppressed, or omitted material facts concerning the safety of its
3 pipeline from the public;

4 f) Whether Defendant knowingly, intentionally, or negligently
5 concealed, suppressed, omitted, or delayed relaying material facts regarding
6 the spill to local, state, and federal agencies, thereby slowing the response,
7 and/or increasing the damages to Plaintiff and members of the Classes;

8 g) Whether the Classes have suffered injury by virtue of
9 Defendant's negligence, recklessness, carelessness, and/or unconscionable
10 and/or deceptive business practices; and,

11 h) Whether Defendant is strictly liable to Plaintiff and the Classes,
12 by virtue of State and/or Federal Law.

13 62. **Typicality:** The representative Plaintiff's claims are typical of the
14 claims of the members of the Classes. Plaintiff and all the members of the Classes
15 have been injured by the same wrongful acts and omissions of Defendant.
16 Plaintiff's claims arise from the same practices and course of conduct that give rise
17 to the claims of the members of the Classes and are based on the same legal
18 theories.

19 63. **Adequacy of Representation:** Plaintiff is a representative who will
20 fully and adequately assert and protect the interests of the Classes, and has retained
21 class counsel who are experienced and qualified in prosecuting class actions.
22 Neither Plaintiff nor his attorneys have any interests contrary to or in conflict with
23 the Classes.

24 64. **Rule 23(b)(3):** In addition to satisfying the prerequisites of Rule
25 23(a), Plaintiff satisfies the requirements for maintaining a class action under Rule
26 23(b)(3). Common questions of law and fact predominate over any questions
27 affecting only individual class members and a class action is superior to individual
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litigation. The amount of damages available to individual plaintiff is insufficient to make litigation addressing Defendant's conduct economically feasible in the absence of the class action procedure. Individualized litigation also presents a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system presented by the legal and factual issues of the case. By contrast, the class action device presents far fewer management difficulties and provides the benefits of a single adjudication, economy of scale, and comprehensive supervision by a single court.

65. **Rule 23(b)(2).** Plaintiff also satisfies the requirements for maintaining a class action under Rule 23(b)(2). Defendant has acted or refused to act on grounds that apply generally to the proposed classes, making final declaratory or injunctive relief appropriate with respect to the proposed classes as a whole.

66. **Rule 23(c)(4).** Plaintiff also satisfies the requirements for maintaining a class action under Rule 23(c)(4). The claims of class members are composed of particular issues that are common to all class members and capable of class wide resolution that will significantly advance the litigation.

VIII. CAUSES OF ACTION

First Claim for Relief

Strict Liability under Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, Government Code Section 8670, *et seq.*

67. Plaintiff incorporates by reference each and every prior and subsequent allegation of this Complaint as if fully restated here.

68. The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act provides that "[a]ny responsible party, as defined in Section 8670.3, shall be absolutely liable without regard to fault for any damages incurred by any injured

1 party which arise out of, or are caused by, the discharge or leaking of oil into or
2 onto marine waters.” Cal. Gov. Code Section 8670.56.5(a).

3 69. The Pacific Ocean and the waters off the Gaviota Coast are “marine
4 waters” as defined in Section 8670.03(i).

5 70. Defendant is a “responsible party,” which includes “the owner or
6 transporter of oil or a person or entity accepting responsibility for the oil.”

7 71. The oil transported through Line 901 is “oil” within the meaning of
8 the Act, which defines “oil” as “any kind of petroleum, liquid hydrocarbon, or
9 petroleum products or any fraction or residues therefrom,” including “crude oil.”

10 72. As the responsible party for the oil transported through Line 901,
11 Defendant is absolutely liable under the Lempert-Keene-Seastrand Act.

12 73. On May 19, 2015, Defendant discharged or leaked crude oil into the
13 Pacific Ocean, and is therefore absolutely liable without regard to fault for all
14 damages that Plaintiff and Class sustained or will sustain. That discharge was not
15 permitted by state or federal law.

16 74. The Act entitles a plaintiff to recover a wide variety of damages,
17 including, but not limited to, loss of subsistence use of natural resources; loss of
18 taxes, royalties, rents, or net profit shares caused by the injury, destruction, loss, or
19 impairment of use of real property, personal property, or natural resources; and
20 loss of profits or impairment of earning capacity due to the injury, destruction, or
21 loss of real property, personal property, or natural resources. *See generally* Cal.
22 Gov. Code Section 8670.56.5(h).

23 75. The contamination illegally caused by the discharge of crude oil from
24 Line 901 into or upon area beaches and the Pacific Ocean injured, caused to be
25 lost, and/or impaired the use of property or natural resources on which Plaintiff and
26 the Classes depend for subsistence living or their livelihood, including, but not
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1 limited to, local beaches and marine waters; populations of fish, and shellfish; and
2 marine ecosystems.

3 76. The injury, destruction, loss, and/or impairment of usability of these
4 natural resources has caused Plaintiff and the Classes to lose profits, and will
5 caused future losses or profits and/or impair their earning capacities.

6 77. The long-lasting effects of the contamination of the discharge of toxic
7 crude oil into the Pacific Ocean on marine life on which Plaintiff and the Classes
8 rely, requires that Plaintiff and the Classes continue future monitoring and testing
9 activities in order to ensure such marine life is not contaminated and is safe and fit
10 for human consumption.

11 **Second Claim for Relief**
12 **Strict Liability for Ultrahazardous Activities**

13 78. Plaintiff incorporates by reference each and every prior and
14 subsequent allegation of this Complaint as if fully restated here.

15 79. At all times herein, Defendant was the owner and operator of the oil
16 pipeline known as Line 901.

17 80. At all times relevant to this action, Defendant had supervision,
18 custody, and control of Line 901.

19 81. At all times herein, Defendant was under a continuing duty to protect
20 the Plaintiff and the Coast from the harm caused by Line 901.

21 82. Defendant was engaged in an ultrahazardous activity by transporting
22 flammable, hazardous, and toxic oil through its pipeline.

23 83. Plaintiff and the Classes have suffered harm from the discharge of
24 toxic oil from Defendant's Line 901.

25 84. The injuries sustained by Plaintiff as a result of the oil spill were the
26 direct and proximate result of Defendant's activity.

1 85. The harm to Plaintiff and the Classes, was of the kind of harm that
2 would reasonably anticipated as a result of the risks created by transporting
3 flammable, hazardous, and toxic oil in a pipeline in close proximity to the Pacific
4 Ocean.

5 86. Defendant's operation of Line 901 and its failure was a substantial
6 factor in causing the harms suffered by Plaintiff and the Classes.

7 87. Due to Defendant's strict liability, Plaintiff and Class members are
8 entitled to recover actual damages.

9 88. The acts and omissions of Defendant were done with malice, fraud,
10 and/or oppression as set out in this Complaint.

11 **Third Claim for Relief**

12 **Violation of the Oil Pollution Act of 1990, 33 U.S.C. § 2701 *et seq.***

13 89. Plaintiff incorporates by reference each and every prior and
14 subsequent allegation of this Complaint as if fully restated here.

15 90. The Federal Oil Pollution Act provides that "each responsible party
16 for...a facility from which oil is discharged...into or upon the navigable waters or
17 adjoining shorelines...is liable for the removal costs and damages...that result
18 from such incident." 33 U.S.C. § 2702(a).

19 91. Recoverable damages include "injury to, or economic losses resulting
20 from destruction of, real or personal property" and "the loss of profits or
21 impairment of earning capacity due to the injury, destruction, or loss of real
22 property, personal property, or natural resources." *Id.* at (b)(2)(B) & (C).

23 92. The Act defines "facility" as including a "pipeline" used for
24 transporting oil. 33 U.S.C. § 2701(7).

25 93. In the case of a discharge of oil from a pipeline, the "responsible
26 party" is "any person owning or operating the pipeline." *Id.* at (32)(E).

1 94. Plains All American Pipeline is the owner and operator of Line 901,
2 and is thus the “responsible party.”

3 95. Line 901 is a “facility” as it a pipeline that transports oil.

4 96. Plaintiff and members of the Class have suffered and will continue to
5 suffer injury, economic losses, loss of profits, and impairment of their earning
6 capacity as a result of the discharge of oil from Defendant’s pipeline.

7 97. Defendant is responsible for compensating Plaintiff and members of
8 the Class for their current and future injuries, remove the oil from the environment,
9 and restore the natural resources harmed and/or destroyed as a result of
10 Defendant’s oil spill.

11 **Fourth Claim for Relief**
12 **Negligence**

13 98. Plaintiff incorporates by reference each and every prior and
14 subsequent allegation of this Complaint as if fully restated here.

15 99. Defendant owed a duty to Plaintiff and the Classes to exercise
16 reasonable and ordinary care. That duty arose from, among other things, federal,
17 state, and local laws that require Defendant to operate a pipeline in a manner that
18 does not damage public health and safety.

19 100. Defendant breached that duty to Plaintiff and the Classes by, among
20 other things, failing to install reasonable safety equipment to prevent a spill, and
21 failing to promptly respond to and contain the spill.

22 101. Defendant, in the exercise of reasonable care, should have known that
23 Line 901 could rupture or otherwise fail, and spill significant amounts of oil.
24 Defendant has acknowledged that spills such as this have occurred on its pipelines
25 in the past and will occur again.
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102. As a direct and proximate result of Defendant's negligence, Plaintiff and the Classes have sustained damages. Those damages take primarily two forms: short-term and long-term.

103. The short-term damages include loss of profits due to fishing closures caused by the spill, and increased costs associated with traveling to different fisheries. The closures have excluded fishers from near shore fishing grounds for lobster, crab, shrimp, and other species. The short-short term damages also include lost profits due to cancellations from tourists who, but for the spill, would have visited Santa Barbara County and businesses here who derive their profits from the area's natural resources.

104. The long-term damages include future lost profits due to the harm caused to the fisheries themselves. For example, the oil is likely to depress or even eradicate in some areas populations of sea urchins, crab, lobster, and other crustaceans by directly killing numbers of those species or hindering their breeding and feeding. Similarly, oil that sinks below the surface will poison fish and potentially smother their eggs, limiting their future numbers.

105. Finally, the taboo associated with an oil spill has and will continue to drive down the price of local fish and shellfish, and consumers and fish processors become wary of producing locally-caught species.

Fifth Claim for Relief
Violations of California's Unfair Competition Law Cal. Bus. & Prof. Code §§
17200, *et seq.*

106. Plaintiff incorporates by reference each and every prior and subsequent allegation of this Complaint as if fully restated here.

107. Defendant has engaged and continues to engage in unfair competition in violation of the Act.

1 108. Defendant's conduct constitutes "fraudulent" business practices
2 within the meaning of the Act in that members of the public have been harmed.

3 109. Defendant's conduct amounts to "unfair" business practices as the Act
4 forbids all wrongful business activities in any context in which they appear.
5 Moreover, as described above, Defendant's practices offend established public
6 policies, are immoral, unethical, oppressive, and unscrupulous. The impact of
7 Defendant's practices is in no way mitigated by any justifications, reason, or
8 motives. Defendant's conduct has no utility when compared to the harm done to
9 Plaintiff and members of the Class.

10 110. Defendant's conduct was "unlawful" because it violated laws
11 including but not limited to the Lempert-Keene Act, Government Code Section
12 8670, *et seq.*, and the Porter-Cologne Act, Water Code Sections 13000, *et seq.*, and
13 Cal. Fish & Game Code Section 5650, *et seq. inter alia*, the Oil Pollution Act, and
14 the oil spill response plans required by federal, state, and local laws. Federal, state,
15 and local officials have announced civil and criminal investigations into
16 Defendant's conduct related to the spill, so it is reasonable to infer that Defendant
17 may have violated other laws.

18 111. As a direct and proximate result of Defendant's unfair, fraudulent, and
19 unlawful methods of competition and unfair and deceptive acts or practices,
20 Plaintiff and the Classes have sustained damages.

21 112. As a proximate result of Defendant's unfair methods of competition
22 and unfair and deceptive acts or practices, Defendant has been unjustly enriched
23 and should be required to make restitution payments to Plaintiff and the Classes
24 pursuant to Bus. & Prof. Code §§ 17203 and 17204.

25 113. The acts and omissions of Defendant were done with malice, fraud,
26 and/or oppression as described in this Complaint.
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Sixth Claim for Relief
Negligence Per Se

114. Plaintiff incorporates by reference each and every prior and subsequent allegation of this Complaint as if fully restated here.

115. At all times herein mentioned, Defendant negligently, wantonly, carelessly and/or recklessly maintained and operated Line 901.

116. Defendants violated several statutes, ordinances, or regulations including but not limited to the Lempert-Keene Act, Government Code Section 8670, *et seq.*, and the Porter-Cologne Act, Water Code Sections 13000, *et seq.*, and Cal. Fish & Game Code Section 5650, *et seq.*

117. As a direct and legal cause of the Defendant's wrongful acts and omissions herein above set forth, Plaintiff and the Classes have suffered and will suffer economic harm, injury, and losses.

118. Plaintiff's harm resulted from the occurrence of the nature that the laws listed above were designed to prevent, and Plaintiff is a member of the class of persons for whose protection those laws were adopted.

119. The acts and omissions of Defendant, and each of them, were done with malice, fraud, and/or oppression as described in this Complaint.

Seventh Claim for Relief
Public Nuisance

120. Plaintiff incorporates by reference each and every prior and subsequent allegation of this Complaint as if fully restated here.

121. Defendant has created a condition that is harmful to health and interferes with the comfortable enjoyment of life and property by discharging up to 101,000 gallons of crude oil onto the beaches of Santa Barbara County and the Pacific Ocean.

122. That nuisance affects a substantial number of individuals similarly situated to the Plaintiff, such as residents and visitors to Santa Barbara County,

1 commercial fishers, and businesses that rely on the safe and healthy environment in
2 the county.

3 123. The oil spill is a condition which would reasonably annoy and disturb
4 an ordinary person, as shown by, for example, the health impacts warned of by the
5 county, the community outrage in response to the spill, and the nationwide interest
6 in the spill's impact's on the Gaviota Coast.

7 124. The seriousness and gravity of that harm outweighs the social utility
8 of Defendant's conduct. There is little or no social utility associated with releasing
9 tens of thousands of gallons of oil into the unique ecological setting of Santa
10 Barbara County.

11 125. Plaintiff and the Classes suffered harm and injury to their economic
12 livelihood, which they did not consent to and which is different from the type of
13 harm suffered by the general public.

14 126. The above acts and omissions also created a public nuisance *vis-a-vis*
15 the Plaintiff and the Classes, interfering with the property rights of Plaintiff and the
16 Classes, and rights incidental to those property rights.

17 127. The acts and omissions of Defendant described herein were also in
18 violation of various California state laws including but not limited to the Lempert-
19 Keene Act, Government Code Section 8670, *et seq.*, and the Porter-Cologne Act,
20 Water Code Sections 13000, *et seq.*, and Cal. Fish & Game Code Section 5650, *et*
21 *seq.*

22 128. Defendant's violations of those statutes directly and proximately
23 caused, and will cause, injury to the Plaintiff and the Classes of a type which the
24 statutes are intended to prevent. Plaintiff and the Classes are of the class of persons
25 for whose protection these statutes were enacted.

1 G. For both pre-judgment and post-judgment interest on any amounts
2 awarded;

3 H. For appropriate injunctive relief, including public injunctive relief;
4 *i.e.*, an order requiring Defendant to restore fisheries impacted by the spill and to
5 repair reputational damage done to Santa Barbara's seafood industry;

6 I. For treble damages insofar as they are allowed by applicable laws;

7 J. For appropriate individual relief as request above;

8 K. For payment of attorneys' fees and expert fees as may be allowable
9 under applicable law, including the Private Attorneys General Act ("PAGA"), Cal.
10 Code. Civ. P., § 1021.5;

11 L. For exemplary or punitive damages under Cal. Civ. Code Section
12 3294 for the oppression, fraud, and malice alleged above; and

13 M. For such other and further relief, including declaratory relief, as the
14 Court may deem proper.

15 **IX. DEMAND FOR JURY TRIAL**

16 Plaintiff hereby demands a trial by jury on all issues so triable.
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1 RESPECTFULLY SUBMITTED this 1st day of June, 2015.

2 KELLER ROHRBACK L.L.P.

3 By /s/Matthew J. Preusch

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